

Case Summary  
Civil Docket

**NOCV2013-00027**  
**Lightbody v Wal-Mart Stores East, L.P.**

<b>File Date</b>	01/07/2013	<b>Status</b>	Disposed: transferred to other court (dtrans)	
<b>Status Date</b>	04/23/2013	<b>Session</b>	A - Civil A-CtRm 10	
<b>Origin</b>	1 - Complaint	<b>Case Type</b>	B22 - Employment Discrimination	
<b>Track</b>	F - Fast track	<b>Lead Case</b>		<b>Jury Trial</b> Yes

**DEADLINES**

	Service	Answer	Rule12/19/20	Rule 15	Discovery	Rule 56	Final PTC	Judgment
Served By			05/07/2013	05/07/2013	11/03/2013	12/03/2013		
Filed By	04/07/2013	05/07/2013	06/06/2013	06/06/2013		01/02/2014		10/29/2014
Heard By			07/06/2013	07/06/2013			05/02/2014	

**PARTIES**

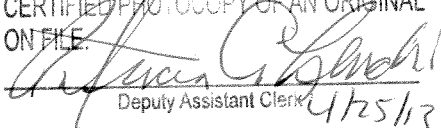
**Plaintiff**  
Diana Lightbody  
Active 01/07/2013

**Private Counsel 542396**  
Samuel Perkins  
Brody Hardoon Perkins & Kesten  
1 Exeter Plaza  
699 Boylston Street  
Boston, MA 02116  
Phone: 617-880-7100  
Fax: 617-880-7171  
Active 01/07/2013 Notify

**Defendant**  
Wal-Mart Stores East, L.P.  
Served: 03/25/2013  
Served (answr pending) 03/29/2013

**ENTRIES**

Date	Paper	Text
01/07/2013	1.0	Complaint & Jury Claim Filed \$280 Entry Fee Paid (Receipt #36726 for \$280.00)
01/07/2013		Origin 1, Type B22, Track F.
01/07/2013	2.0	Civil action cover sheet filed
01/07/2013		Fast Track Notice Sent to Attorney
01/17/2013		ONE TRIAL review by Clerk, Case is to remain in the Superior Court
03/29/2013	3.0	SERVICE RETURNED: Wal-Mart Stores East, L.P.(Defendant) - Delivered in hand to J. Descovich Corp Operations Specialist agent, person in charge at the time of service on 3/25/2013
04/23/2013		Case status changed to 'Needs review for answers' at service deadline review
04/23/2013	4.0	Notice of filing of notice of removal
04/23/2013	5.0	Notice of removal - Case REMOVED this date to US District Court of Massachusetts

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CERTIFIED PHOTOCOPY OF AN ORIGINAL  
ON FILE.  
  
Deputy Assistant Clerk 4/25/13

**EVENTS**

## COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT  
C.A. NO.: NOCV2013-

13 00027

\_\_\_\_\_  
DIANA LIGHTBODY,

Plaintiff

v.

\_\_\_\_\_  
WAL-MART STORES EAST, L.P.

Defendant

RECEIVED & FILED  
CLERK OF THE COURTS  
NORFOLK COUNTY

1-7-13

COMPLAINT

Diana Lightbody brings the following complaint against Wal-Mart Stores East, L.P. ("Walmart") for violation of Mass. Gen. L. ch. 151B, and alleges:

PARTIES

1. Diana Lightbody is a resident of Connecticut and has been an employee of Wal-Mart stores in Massachusetts for nineteen years. She has been a Zone Manager Supervisor in Walmart store No. 2103 in Walpole, Norfolk County, Massachusetts, since September 28, 2009, and was a Department Manager before that. She currently oversees the apparel department in the Walpole Walmart store.
2. Wal-Mart Stores East, L.P. is the owner of Walmart Store No. 2103 in Walpole, Norfolk County, Massachusetts ("The Walpole store").

JURISDICTION

3. Ms. Lightbody originally filed her complaint with the Massachusetts Commission Against Discrimination on April 16, 2010 and subsequently obtained the MCAD's

permission to remove this matter to Superior Court.

**FACTUAL ALLEGATIONS**

4. The senior manager in the Walpole store in 2009-2010 was Store Manager Leo Desousa. Just below him in authority were the Assistant Managers, Robin Wilson and Walter Budz. As a Zone Manager Supervisor ("ZMS"), Ms. Lightbody was one management level below Assistant Managers Wilson and Budz.
5. In order to become a ZMS, Ms. Lightbody attended a week-long training in September, 2009 at the Mansfield, Massachusetts Holiday Inn with roughly twenty other Walmart managers. The training included sessions on respect for other employees and customers, and detailed information on sexual harassment and the penalties for violating Walmart rules and regulations.
6. After the training, all management trainees were required to take CBL ("Computer Based Learning") tests at their stores, to determine whether they had understood and retained the material. One of the CBL's was specifically addressed to sexual harassment. All Walmart management staff at the ZMS level and above have had comparable training in sexual harassment.
7. In September of 2009, Assistant Manager Robin Wilson was transferred to the Walpole store from another Massachusetts Walmart store. Mr. Wilson, who is African American, told co-workers at the Walpole store that he was married, and that he had a child who lived in the South.
8. Within two weeks of his arrival at the Walpole store, Mr. Wilson asked Ms. Lightbody if she was married, and began telling Ms. Lightbody that she looked good, that she was "hot." He would roll his tongue around his lips suggestively while

looking at her. He began to touch Ms. Lightbody while talking with her, even though they did not have a professional or personal relationship that would have made touching acceptable.

9. In late October 2009, Ms. Lightbody told Cathy McComb, the personnel manager of the Walpole store, about Mr. Wilson's inappropriate behavior. Ms. McComb recommended that Ms. Lightbody keep a log of the incidents, and Ms. Lightbody began the log the first week of November 2009.
10. Soon afterward, Ms. Lightbody told Ms. McComb about Wilson's inappropriate behavior, Ms. McComb told Ms. Lightbody that Mr. Wilson had begun to touch her too, during meetings in her office to discuss work schedules.
11. Ms. Lightbody later learned that Bonnie McLaughlin, who was in charge of store invoicing, had had similar experiences with Mr. Wilson. Ms. McComb told Ms. Lightbody that Mr. Wilson had told her that he wanted to put her over his knee and spank her, and that while saying this he had mimicked spanking behavior.
12. Ms. McComb and Bonnie McLaughlin told Ms. Lightbody that while working with them Mr. Wilson touched them and rubbed their arms.
13. From mid-November to mid-December, 2009, Mr. Wilson continued to harass Ms. Lightbody in a variety of ways. He repeatedly told Ms. Lightbody that she was "hot" and told Ms. Lightbody that she "excited" him. He pinched her stomach several times and tried to pinch her buttocks. He told her, Cathy McComb and Alexia, the Head Cashier, that his wife was going to be away for the weekend so he planned to sit naked on the couch. He repeatedly would do things to get Ms. Lightbody's attention and then wiggle his tongue suggestively.

14. Ms. Lightbody told Mr. Wilson that she did not appreciate this kind of behavior, but after several weeks of continued harassment, it became clear that Ms. Lightbody was not going to be able to stop him. By this point she was losing sleep, was upset and worried each day we worked the same shift as Mr. Wilson. She also was physically scared of his repeated attempts to touch, grab and pinch her.
15. Ms. Lightbody spoke with Walter Budz, another Assistant Manager at the Walpole store, to discuss her concerns about Mr. Wilson. On December 17, 2009, she filed a written sexual harassment complaint with the store Manager, Leo Desousa.
16. As a result of Ms. Lightbody's complaint against Mr. Wilson, Walmart opened a sexual harassment investigation, known as a "Red Book" investigation. The investigation was conducted by Jennifer Castillo, the Human Resource Market Manager for the nine-store "market" that includes the Walpole store.
17. Ms. Lightbody met with Ms. Castillo during the week following December 17 to discuss the complaint against Mr. Wilson. Ms. Lightbody told Ms. Castillo what Mr. Wilson had done, gave her a copy of the log Ms. Lightbody had kept, and gave her the names of witnesses who could corroborate certain incidents described in the log.
18. About two weeks later, on January 7, 2010, Ms. Castillo scheduled a meeting with Ms. Lightbody to discuss the results of her investigation. Also attending the meeting were Walpole store manager Leo Desousa and Kevin Kennedy, a district Loss Prevention Manager. Ms. Lightbody asked why Mr. Kennedy was there, and was told he attended meetings when there was a potential lawsuit.
19. At the meeting, Ms. Castillo told Ms. Lightbody Walmart had "closed" the investigation, and that Mr. Wilson would remain working as Assistant Manager as

before. Ms. Lightbody asked whether there were going to be any consequences for Mr. Wilson. Ms. Castillo responded that the company would not punish him because he had denied any significant wrongdoing.

20. Ms. Lightbody learned later that Walmart management told Mr. Wilson to repeat the computerized CBL test on sexual harassment--a test he had taken at least once before.

21. Ms. Castillo said at the Meeting January 7, 2010 that Mr. Wilson had admitted some of the inappropriate behavior the other women had accused him of, but had denied what Ms. Lightbody had said he had done to her. Ms. Castillo said that Mr. Wilson had admitted telling Ms. McComb that he wanted to lay her across his knees and spank her. Ms. Castillo said Mr. Wilson had denied grabbing Ms. Lightbody or trying to.

22. Ms. Castillo's presentation at the January 7 meeting demonstrated that Walmart had accepted Mr. Wilson's denials concerning Ms. Lightbody's complaint at face value, without even a superficial investigation, and despite Wilson's admissions that he had harassed other female employees.

23. Ms. Castillo's decision to accept Wilson's denial convinced Ms. Lightbody that Walmart management was telling her the company believed she had fabricated her complaint. During the January 7 meeting, Ms. Castillo provided further insight into Walmart's thinking when she asked Ms. Lightbody whether Ms. Lightbody had "led him on," and revealed that during its investigation into her complaint Walmart had looked into whether Ms. Lightbody was "a troublemaker."

24. After hearing Ms. Castillo's presentation at the January 7 meeting, Ms. Lightbody was extremely upset. She had worked for sixteen years at Walmart, and had risen to a

management position. She expected that the company would do a real investigation of sexual harassment complaints by three employees, which included, in her case, repeated physical contact, grabbing, and sexually suggestive comments and gestures. In response, the company had asked if she had led Mr. Wilson on, had not interviewed witnesses who could corroborate what Ms. Lightbody had said, had instead investigated whether she was a “troublemaker,” and had not imposed any discipline on Mr. Wilson.

25. Ms. Lightbody knew from her management training that Mr. Wilson's behavior was a violation of company policy, and should have led to a much more serious sanction than repeating a CBL unit. Ms. Lightbody was particularly upset that Walmart management had decided she had fabricated her complaint, even though they had not interviewed the witnesses she told them about. Finally, she was upset that Walmart had decided to have Ms. Lightbody work the same schedule as before with Mr. Wilson, after effectively telling her they thought she had lied to get him in trouble.

26. On January 11, 2010, four days after Ms. Lightbody's meeting with Mr. Castillo, she learned from Alyssha Dellis, another ZMS, that Ms. Dellis had witnessed Mr. Wilson grabbing and pinching Ms. Lightbody's stomach at least twice. Ms. Dellis said she was nervous about getting Mr. Wilson in trouble, but agreed to meet with Walter Budz, the Assistant Manager.

27. On the evening of January 11, 2010, Ms. Dellis and Ms. Lightbody met with Mr. Budz, who asked Ms. Dellis what she had seen. Ms. Dellis told Mr. Budz that she had seen Mr. Wilson grab and pinch Ms. Lightbody. Ms. Dellis told Budz that she was worried Mr. Wilson would be fired because of what she was saying. Mr. Budz said he

would talk with Store Manager Leo Desousa about what Ms. Dellis had said.

28. Ms. Lightbody waited several days, and then asked Ms. Dellis whether Mr. Desousa had spoken to her about the information Ms. Dellis had provided Butz on January 11. Ms. Dellis said no one had asked her about the information she had given Mr. Budz about Mr. Wilson on January 11.
29. Early the morning of January 13, 2010, when Mr. Wilson and Ms. Lightbody were the only management personnel in the store, Mr. Wilson paged Ms. Lightbody and asked her to come to the management office to speak with him. Given Mr. Wilson's behavior and Walmart's recent decision to take his word over hers, despite corroboration of her accusation by at least one witness, Ms. Lightbody chose not to meet alone with Mr. Wilson in the management office. Instead, she called him on the phone from the floor.
30. Later on January 13, Ms. Lightbody spoke with Store Manager Leo Desousa about Mr. Wilson. She told Mr. Desousa that Ms. Dellis had confirmed what Ms. Lightbody had said about Mr. Wilson grabbing her, and that Assistant Manager Budz had heard Ms. Dellis' account.
31. In providing this additional evidence to Store Manager Desousa on January 13, 2010, Ms. Lightbody wanted and expected Mr. Desousa to treat this new information seriously. She expected him at least to decide that she had been telling the truth about Mr. Wilson, and she hoped Mr. Desousa would use this new evidence to reopen the investigation into her harassment complaint against Mr. Wilson.
32. Instead of inquiring about the new information that proved Mr. Wilson had harassed Ms. Lightbody and lied to Walmart investigators, Mr. Desousa instead focused on her



response to Mr. Wilson's page earlier that day. Mr. Desousa said he'd heard that Ms. Lightbody didn't want to meet alone with Mr. Wilson in the management office, and asked, "Why didn't you go?" Ms. Lightbody said she was scared of what Mr. Wilson might do, and was also scared that if anything did happen, Walmart would choose to believe Mr. Wilson's version and reject hers.

33. Mr. Desousa said, "I'm sorry you feel that way. Is this the way it's going to be forever?"
34. Based upon her interaction with Mr. Desousa, and Walmart's failure to reopen its investigation into her complaints against Mr. Wilson, Ms. Lightbody believes that Store Manager Desousa did not tell Ms. Castillo that Ms. Dellis had corroborated Ms. Lightbody's complaint, and believes that Mr. Desousa took no action to reopen the investigation or determine whether Wilson had lied to investigators.
35. The outcome of Walmart's investigation demonstrates that Walmart had no interest in finding out any information that might obligate the company to terminate Mr. Wilson or disrupt operation of the Walpole store. Jennifer Castillo chose not to interview witnesses who would have confirmed that Mr. Wilson had done just what Ms. Lightbody accused him of. When Ms. Lightbody told Mr. Desousa there were witnesses who would prove what she said, Mr. Desousa didn't bother to check this information, reopen the investigation, or even tell Ms. Lightbody that he now believed what she had alleged. Instead, Store Manager Desousa in substance told Ms. Lightbody that she should forget what had happened and accept that Mr. Wilson could do what he wanted. Walmart management deliberately curtailed its investigation, "closed" it prematurely, and refused to consider additional evidence

that proved Mr. Lightbody's complaint.

36. Ms. Lightbody's case is not the only occasion on which management at the Walpole store decided to ignore obviously unlawful sexual harassment. In early March 2010, a young male maintenance worker, Jaison, dropped his pants to the ground in front of a young female cashier, exposing himself. He claimed it was an accident, but the circumstances—including the fact that he was not wearing any underwear--show that it was deliberate. The head cashier, Alexia, complained to Leo Desousa about the incident. Mr. Desousa told Mr. Wilson to take care of the problem, and Mr. Wilson said he had--by telling Jaison to wear underwear from then on. Mr. Wilson and Mr. Desousa both laughed, and it was obvious that they did not consider the incident significant.
37. Despite Walmart's policy against sexual harassment, and its supposed investigation of Mr. Wilson's behavior, the net result of Walmart's investigation was that Mr. Wilson knew he could get away with sexual harassment. Following Ms. Lightbody's complaint and Walmart's deliberately ineffective investigation, Mr. Wilson grabbed and hugged another employee who works for Ms. Lightbody, Amy Shaughnessy, shocking her and scaring her.
38. Walmart's investigation into Mr. Lightbody's complaint was carefully tailored to further Walmart's managerial convenience. Company investigators chose to believe petty complaints against Mr. Wilson—complaints that would leave him in place with nothing more than a warning—and disbelieve Ms. Lightbody's complaint, which normally would lead to termination of an Assistant Manager.
39. Walmart's handling of Ms. Lightbody's harassment complaints violated M.G.L. c.

151B, § 4 in a particularly outrageous and egregious way. The investigation of her complaint, which under the law is supposed to protect her and her female co-workers from harassment, was not designed to determine the truth or to impose appropriate discipline. To the contrary, it was designed to notify Ms. Lightbody and other female employees that complaints that might force Walmart to replace management personnel would not be investigated competently or thoroughly, and would end with the victim being accused of “leading on” the harasser or being a “troublemaker.”

40. As a result of Walmart’s violations of ch 151B, § 4, Ms. Lightbody has suffered severe emotional distress.

#### **COUNT I**

41. Walmart’s behavior, as alleged above, violated its duties to Ms. Lightbody under M.G.L. c. 151B, § 4.

42. Walmart’s perversion of the investigative process, and use of that process to deter complaints and punish the complainant for making allegations that might lead to termination of an Assistant Manager, was an egregious and outrageous violation of ch. 151B, § 4, justifying punitive damages.

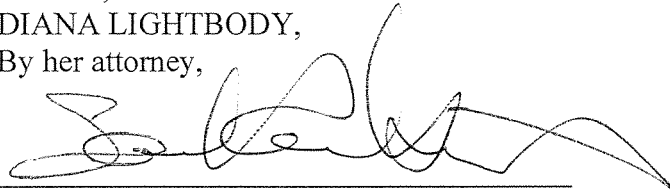
WHEREFORE, Diana Lightbody demands judgment against Walmart awarding her compensatory damages, punitive damages, interest and attorney’s fees.

JURY DEMAND

THE PLAINTIFF DEMANDS TRIAL BY JURY ON ALL ISSUES.

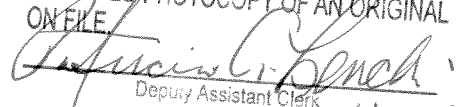
Respectfully submitted,

Plaintiff,  
DIANA LIGHTBODY,  
By her attorney,



Samuel Perkins, BBO # 542396  
BRODY, HARDOON, PERKINS & KESTEN, LLP  
One Exeter Plaza  
Boston, MA 02116  
(617) 880-7100  
(617) 880-7171  
sperkins@bhpkllaw.com

Dated: January 7, 2013

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Deputy Assistant Clerk  
4/25/13

**CIVIL ACTION  
COVER SHEET**

Case 1:13-cv-10984-DJC Document 7 Filed 04/29/14 Page 3 of 45

Superior Court of Massachusetts  
County: Norfolk



PLAINTIFF(S)

Diana Lightbody

DEFENDANT(S)

Wal-Mart Stores East, L.P.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Samuel Perkins  
Brody, Hardoon, Perkins & Kesten, One  
Exeter Plaza, Boston, MA 02116, 617-880-7100  
Board of Bar Overseers number: 542396

ATTORNEY (if known)

**RECEIVED & FILED  
CLERK OF THE COURTS  
NORFOLK COUNTY**  
1-7-13

**Origin code and track designation**

Place an x in one box only:

☒ 1. F01 Original Complaint

☐ 2. F02 Removal to Sup.Ct. C.231,s.104  
(Before trial) (F)

☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After  
trial) (X)

☐ 5. F05 Reactivated after rescript; relief from  
judgment/Order (Mass.R.Civ.P. 60) (X)

☐ 6. E10 Summary Process Appeal (X)

**TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)**

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B22

Employment Discrimination

(F)

(X) Yes

( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

**TORT CLAIMS**

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses .....	\$ .....
2. Total Doctor expenses .....	\$ .....
3. Total chiropractic expenses .....	\$ .....
4. Total physical therapy expenses .....	\$ .....
5. Total other expenses (describe) .....	\$ .....

Subtotal \$ .....

B. Documented lost wages and compensation to date .....

C. Documented property damages to date .....

D. Reasonably anticipated future medical and hospital expenses .....

E. Reasonably anticipated lost wages .....

F. Other documented items of damages (describe) Emotional Distress- In excess of \$50,000  
\$ .....

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

TOTAL \$50,000 + .....

**CONTRACT CLAIMS**

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

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ON FILE.

*Deputy Assistant Clerk*  
4/25/13

TOTAL \$ .....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 1-7-2013

# **CIVIL ACTION COVER SHEET INSTRUCTIONS**

## **SELECT CATEGORY THAT BEST DESCRIBES YOUR CASE**

### **CONTRACT**

A01 Services, labor and materials (F)  
A02 Goods sold and delivered (F)  
A03 Commercial Paper (F)  
A08 Sale or lease of real estate (F)  
A12 Construction Dispute (A)  
A99 Other (Specify) (F)

### **TORT**

B03 Motor Vehicle negligence-  
personal injury/property damage (F)  
B04 Other negligence-personal  
injury/property damage (F)  
B05 Products Liability (A)  
B06 Malpractice-medical (A)  
B07 Malpractice-other(Specify) (A)  
B08 Wrongful death, G.L.c.229,s2A (A)  
B15 Defamation (Libel-Slander) (A)  
B19 Asbestos (A)  
B20 Personal Injury-Slip&Fall (F)  
B21 Environmental (A)  
B22 Employment Discrimination (F)  
B99 Other (Specify) (F)

### **REAL PROPERTY**

C01 Land taking (eminent domain) (F)  
C02 Zoning Appeal, G.L. c.40A (F)  
C03 Dispute concerning title (F)  
C04 Foreclosure of mortgage (X)  
C05 Condominium lien and charges (X)  
C99 Other (Specify) (F)

### **EQUITABLE REMEDIES**

D01 Specific performance of contract (A)  
D02 Reach and Apply (F)  
D06 Contribution or Indemnification (F)  
D07 Imposition of Trust (A)  
D08 Minority Stockholder's Suit (A)  
D10 Accounting (A)  
D12 Dissolution of Partnership (F)  
D13 Declaratory Judgment G.L.c.231A (A)  
D99 Other (Specify) (F)

### **MISCELLANEOUS**

E02 Appeal from administrative (X)  
Agency G.L. c. 30A  
E03 Action against Commonwealth  
Municipality, G.L. c.258 (A)  
E05 All Arbitration (X)  
E07 c.112,s.12S (Mary Moe) (X)  
E08 Appointment of Receiver (X)  
E09 General contractor bond,  
G.L. c.149,s.29,29a (A)  
E11 Workman's Compensation (X)  
E14 Chapter 123A Petition-SDP (X)  
E15 Abuse Petition, G.L.c.209A (X)  
E16 Auto Surcharge Appeal (X)  
E17 Civil Rights Act, G.L.c.12,s.11H (A)  
E18 Foreign Discovery proceeding (X)  
E96 Prisoner Cases (F)  
E97 Prisoner Habeas Corpus (X)  
E99 Other (Specify) (X)

**TRANSFER YOUR SELECTION TO THE FACE SHEET.**

**EXAMPLE:**

CODE NO.	TYPE OF ACTION (SPECIFY)	TRACK	IS THIS A JURY CASE?
B03	Motor Vehicle Negligence-Personal Injury	(F)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

## **SUPERIOR COURT RULE 29**

**DUTY OF THE PLAINTIFF.** The plaintiff or his/her counsel shall set forth, on the face sheet (or attach additional sheets as necessary), a statement specifying in full and itemized detail the facts upon which the plaintiff then relies as constituting money damages. A copy of such civil action cover sheet, including the statement as to the damages, shall be served on the defendant together with the complaint. If a statement of money damages, where appropriate is not filed, the Clerk-Magistrate shall transfer the action as provided in Rule 29(5)(C).

**DUTY OF THE DEFENDANT.** Should the defendant believe the statement of damages filed by the plaintiff in any respect inadequate, he or his counsel may file with the answer a statement specifying in reasonable detail the potential damages which may result should the plaintiff prevail. Such statement, if any, shall be served with the answer.

**A CIVIL ACTION COVER SHEET MUST BE FILED WITH EACH COMPLAINT, BUFF COLOR PAPER.**

**FAILURE TO COMPLETE THIS COVER SHEET THOROUGHLY AND ACCURATELY  
MAY RESULT IN DISMISSAL OF THIS ACTION.**

TORT MOTOR VEHICLE TORT - CONTRACT -  
EQUITABLE RELIEF - OTHER)

RECEIVED & FILED  
CLERK OF THE COURTS

NORFOLK COUNTY

3/29/13

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION

NO. CV2013-00027

Diana Lightbody  
....., Plaintiff(s)

v.

Wal-Mart Stores East, L.P. ...., Defendant(s)

### SUMMONS

To the above-named Defendant: Wal-Mart Stores East, L.P.

You are hereby summoned and required to serve upon Samuel Perkins, Esq. of Brody, Hardoon, Perkins & Kester, plaintiff's attorney, whose address is 1 Exeter Plaza, 699 Boylston Street, Boston, MA 02116, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Dedham either before service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

BARBARA J. ROUSE, Esquire

WITNESS,

, at Boston the 19th

day of February, in the year of our Lord two thousand and Thirteen.

I ATTEST THAT THIS DOCUMENT IS A  
CERTIFIED PHOTOCOPY OF AN ORIGINAL  
ON FILE

*Stephen C. Smith*  
Deputy Assistant Clerk 4/25/13

*Walter D. Smith* Clerk.

#### NOTES:

1. This summons is issued pursuant to Rules 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each such defendant, each should be addressed to the particular defendant.



Suffolk County Sheriff's Department • 132 Portland Street, Boston, MA 02114 • (617) 704-6999

March 26, 2013

Suffolk, ss.

I hereby certify and return that on 3/25/2013 at 1:30 PM I served a true and attested copy of the Summons, Complaint, Cover Sheet and Tracking Order, Notice of Appearance in this action in the following manner: To wit, by delivering in hand to J. Descovich Corp Operations Specialist agent, person in charge at the time of service for Wal-Mart Stores, East, L.P., c/o National Registered Agents, Inc. 155 Federal Street Suite 700 Boston, MA 02110 . Attest/Copies (\$5.00) Basic Service Fee (\$30.00) Postage and Handling (\$1.00) Travel (\$6.40) Total: \$42.40

Deputy Sheriff John Cotter

Deputy Sheriff

**PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN  
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON  
DEFENDANT.**

, 20 .

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. SUPERIOR COURT  
CIVIL ACTION

NO. CV2013-00027

Diana Lightbody

....., Plaintiff

v.

Wal-Mart Stores East, L.P.  
....., Defendant**SUMMONS**

(Mass. R. Civ. P.4)

18006573



COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

DIANA LIGHTBODY,

Plaintiff,

v.

WAL-MART STORES EAST, L.P.

Defendant.

C.A. NO. NOCV2013-00027

4/23/13  
RECEIVED & FILED  
CLERK OF THE COURTS  
NORFOLK COUNTY


**NOTICE OF FILING OF NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Wal-Mart Stores East, L.P., by its undersigned counsel, hereby gives notice to the Superior Court of Norfolk County, Massachusetts, and to the attorney of record for Plaintiff Diana Lightbody that, on April 19, 2013, Defendant filed a Notice of Removal, thereby removing this Action to the United States District Court for the District of Massachusetts. A certified copy of the Notice of Removal is attached hereto.

Respectfully submitted,

WAL-MART STORES EAST, L.P.

By its attorneys,



Christopher B. Kaczmarek (No. 647085)

LITTLER MENDELSON, P.C.

One International Place, Suite 2700

Boston, MA 02110

(617) 378-6000 (t)

(617) 737-0052 (f)

ckaczmarek@littler.com

I ATTEST THAT THIS DOCUMENT IS A  
CERTIFIED PHOTOCOPY OF AN ORIGINAL  
ON FILE.

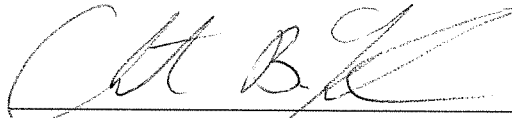
  
Deputy Assistant Clerk 4/25/13

Dated: April 22, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of April 2013, a true copy of the foregoing Notice of Filing of Notice of Removal was served via first class mail upon the attorney of record for plaintiff:

Samuel Perkins  
Brody, Hardoon, Perkins & Kesten, LLP  
One Exeter Plaza  
Boston, MA 02116

  
\_\_\_\_\_  
Christopher B. Kaczmarek

Firmwide:119625338.1 015602.8370



Littler Mendelson, PC  
One International Place  
Suite 2700  
Boston, MA 02110

April 22, 2013

Christopher B. Kaczmarek  
617.378.6017 direct  
617.378.6000 main  
617.507.8046 fax  
ckaczmarek@littler.com

**VIA OVERNIGHT MAIL**

Civil Clerk  
Norfolk Superior Court  
650 High Street  
Dedham, MA 02026

**Re: Lightbody v. Wal-Mart Stores East, L.P.**  
**Civil Action No. NOCV2013-00027**

Dear Sir or Madam:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the Notice of Filing of Notice of Removal, with attached certified copy of the Notice of Removal.

Please stamp the marked copy of the Notice with the date and fact of filing and return it to me via the enclosed self-addressed, postage prepaid envelope.

Please contact my paralegal, Melissa Gorman, at 617-378-6032 upon assembly of the certified copy of the record for filing in federal court.

Sincerely,

Christopher B. Kaczmarek

/mg

Encls.

cc: Samuel Perkins, Esq.

Firmwide:119625577.1 015602.8370

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DIANA LIGHTBODY,

Plaintiff,

v.

WAL-MART STORES EAST, L.P.

Defendant.

Civil Action No.

4/23/13  
CLERK OF THE DISTRICT COURT  
NORFOLK COUNTY

**NOTICE OF REMOVAL**

Defendant Wal-Mart Stores East, L.P. ("Defendant") files this Notice of Removal in accordance with 28 U.S.C. §§ 1332, 1441, and 1446 and hereby removes this action from the Norfolk County Superior Court (the "Superior Court") to the United States District Court for the District of Massachusetts. As its reasons for removal, Defendant states as follows:

1. On or about January 7, 2013, plaintiff Diana Lightbody filed a lawsuit in the Superior Court titled *Diana Lightbody v. Wal-Mart Stores East, L.P.*, Civil Action No. NOCV2013-00027 (the "Pending Action").
2. Defendant's registered agent for service of process was served with a copy of the Summons and Complaint on March 25, 2013. Therefore, this Notice of Removal is timely. See 28 U.S.C. § 1446(b).
3. This Court has diversity jurisdiction over the Pending Action pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.
4. Plaintiff is a resident of the state of Connecticut. See Compl. ¶ 1. Defendant Wal-Mart Stores East, L.P. is a limited partnership organized under the laws of the State of

Delaware, with a principal place of business in Arkansas. Thus, there is complete diversity among the parties.

5. Although Plaintiff's Complaint does not specify the precise amount of damages sought, there is more than a reasonable probability that the amount in controversy in this case exceeds \$75,000.00, exclusive of interest and costs. In her Complaint, Plaintiff seeks the full panoply of damages available to her under Massachusetts General Laws Chapter 151B, including emotional distress damages, compensatory damages, punitive damages, and attorney's fees. See Compl. at p. 10. Moreover, in the Civil Action Cover Sheet filed by Plaintiff in the Superior Court (a copy of which is attached as part of Exhibit A hereto), Plaintiff claims that she suffered over \$50,000.00 in emotion distress damages alone. As a result, there is more than a reasonable probability that the amount in controversy in this case exceeds \$75,000.00, exclusive of interest and costs. Accordingly, this Court has jurisdiction over the Pending Action pursuant to 28 U.S.C. § 1332(a).

6. Attached hereto as Exhibit A is true and correct copy of all process, pleadings (including the Summons and Complaint), and orders served on Defendant in the Pending Action. See 28 U.S.C. § 1446(a).

7. The Pending Action is properly removed to this Court under 28 U.S.C. §§ 1441 and 1446 because it is pending in Norfolk County, Massachusetts, which lies within this District.

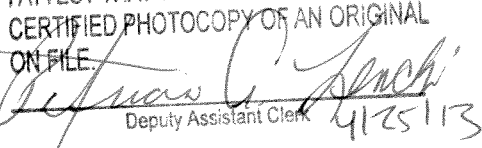
8. A true and complete copy of this Notice of Removal has been served this day by overnight delivery upon the Clerk of the Norfolk County Superior Court for filing in accordance with 28 U.S.C. § 1446(d). A copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit B, the original of which is being filed with the Norfolk County Superior Court

Civil Clerk. This Notice of Removal and a Notice of Filing of Notice of Removal have also been served this day via first class mail upon Plaintiff's counsel.

Respectfully submitted,

WAL-MART STORES EAST, L.P.

By its attorneys,

I ATTEST THAT THIS DOCUMENT IS A  
CERTIFIED PHOTOCOPY OF AN ORIGINAL  
ON FILE  
  
Deputy Assistant Clerk 4/25/13

/s/ Christopher B. Kaczmarek  
Christopher B. Kaczmarek (No. 647085)  
LITTLER MENDELSON, P.C.  
One International Place, Suite 2700  
Boston, MA 02110  
(617) 378-6000 (t)  
(617) 737-0052 (f)  
ckaczmarek@littler.com

Dated: April 22, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of April 2013, a true copy of the foregoing Notice of Removal was filed electronically through the Court's CM/ECF system, is available for viewing and downloading from the ECF system, will be sent electronically to counsel of record as registered participants identified on the Notice of Electronic Filing and via first class mail to all non-registered participants identified on the Notice of Electronic Filing, as well as via first class mail upon the attorney of record for plaintiff:

Samuel Perkins  
Brody, Hardoon, Perkins & Kesten, LLP  
One Exeter Plaza  
Boston, MA 02116

/s/ Christopher B. Kaczmarek  
Christopher B. Kaczmarek

(TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:  
TORT MOTOR VEHICLE TORT - CONTRACT -  
EQUITABLE RELIEF - OTHER)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION

NO. CV2013-00027

Diana Lightbody  
\_\_\_\_\_, Plaintiff(s)

v.

Wal-Mart Stores East, L.P. \_\_\_\_\_, Defendant(s)

SUMMONS

To the above-named Defendant: Wal-Mart Stores East, L.P.

Brody, Hardoon, Perkins & Kesten  
You are hereby summoned and required to serve upon Samuel Perkins, Esq. of  
plaintiff's attorney, whose address is 1 Exeter Plaza, 699 Boylston Street, Boston,  
MA 02116  
an answer to the complaint which is herewith served upon you, within 20 days after service of this  
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken  
against you for the relief demanded in the complaint. You are also required to file your answer to the  
complaint in the office of the Clerk of this court at Dedham either before service upon the plaintiff's  
attorney or within a reasonable time thereafter.

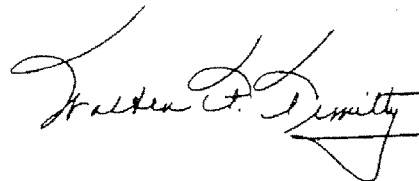
Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim  
which you may have against the plaintiff which arises out of the transaction or occurrence that is the  
subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other  
action.

BARBARA J. ROUSE, Esquire

WITNESS,

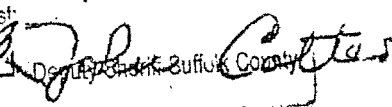
, at Boston the 19th

day of February, in the year of our Lord two thousand and Thirteen.

 Clerk.

NOTES:

1. This summons is issued pursuant to Rules 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption.  
If a separate summons is used for each such defendant, each should be addressed to the particular defendant.

A true copy Attest  
3/25/13  
  
Deputy Clerk, Suffolk County

### PROOF OF SERVICE OF PROCESS

I hereby certify and return that on ....., 20 ....., I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

.....

.....

.....

Dated: ....., 20 .....

**N. B. TO PROCESS SERVER:-**

**PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.**

, 20 .
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13006573

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. SUPERIOR COURT  
CIVIL ACTION

NO. CV2013-00027

Diana Lightbody

....., Plaintiff

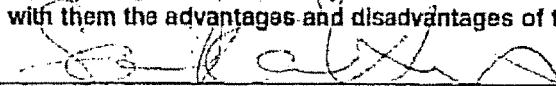
v.

Wal-Mart Stores East, L.P.  
....., Defendant

**SUMMONS**

**(Mass. R. Civ. P.4)**



<b>CIVIL ACTION COVER SHEET</b>	DOCKET NO.(S) <b>NOCV2013-</b>	Trial Court of Massachusetts Superior Court Department County: <u>Norfolk</u>
PLAINTIFF(S) <b>Diana Lightbody</b>		DEFENDANT(S) <b>Wal-Mart Stores East, L.P.</b>
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <b>Samuel Perkin</b> <b>Brody, Haroon, Perkins &amp; Kesten, One</b> <b>Exeter Plaza, Boston, MA 02116, 617-880-7100</b> Board of Bar Overseers number: <b>542396</b>		ATTORNEY (If known)
<b>Origin code and track designation</b>		
Place an x in one box only: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> 1. F01 Original Complaint  <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104              (Before trial) (F)  <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)         </div> <div style="width: 45%;"> <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &amp; 104 (After trial) (X)  <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)  <input type="checkbox"/> 6. E10 Summary Process Appeal (X)         </div> </div>		
<b>TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)</b>		
CODE NO. <b>B22</b>	TYPE OF ACTION (specify) <b>Employment Discrimination</b> (F)	TRACK <b>(X) Yes</b> ( ) No
IS THIS A JURY CASE?		
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
<b>TORT CLAIMS</b> (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses .....		\$ .....
2. Total Doctor expenses .....		\$ .....
3. Total chiropractic expenses .....		\$ .....
4. Total physical therapy expenses .....		\$ .....
5. Total other expenses (describe) .....		\$ .....
		<b>Subtotal \$ .....</b>
B. Documented lost wages and compensation to date .....		\$ .....
C. Documented property damages to date .....		\$ .....
D. Reasonably anticipated future medical and hospital expenses .....		\$ .....
E. Reasonably anticipated lost wages .....		\$ .....
F. Other documented items of damages (describe) Emotional Distress- In excess of \$50,000 .....		\$ .....
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		
		<b>TOTAL \$50,000 + .....</b>
<b>CONTRACT CLAIMS</b> (Attach additional sheets as necessary)		
Provide a detailed description of claim(s):		
<b>TOTAL \$ .....</b>		
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record 		DATE: <u>1-7-2013</u>

**COPY**

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT

C.A. NO.: NOCV2013-3 00027

\_\_\_\_\_  
DIANA LIGHTBODY,

Plaintiff

v.

\_\_\_\_\_  
WAL-MART STORES EAST, L.P.

Defendant  
\_\_\_\_\_

RECEIVED & FILED  
CLERK OF THE COURTS  
NORFOLK COUNTY  
-1-7-13

COMPLAINT

Diana Lightbody brings the following complaint against Wal-Mart Stores East, L.P. ("Walmart") for violation of Mass. Gen. L. ch. 151B, and alleges:

PARTIES

1. Diana Lightbody is a resident of Connecticut and has been an employee of Wal-Mart stores in Massachusetts for nineteen years. She has been a Zone Manager Supervisor in Walmart store No. 2103 in Walpole, Norfolk County, Massachusetts, since September 28, 2009, and was a Department Manager before that. She currently oversees the apparel department in the Walpole Walmart store.
2. Wal-Mart Stores East, L.P. is the owner of Walmart Store No. 2103 in Walpole, Norfolk County, Massachusetts ("The Walpole store").

JURISDICTION

3. Ms. Lightbody originally filed her complaint with the Massachusetts Commission Against Discrimination on April 16, 2010 and subsequently obtained the MCAD's

permission to remove this matter to Superior Court.

**FACTUAL ALLEGATIONS**

4. The senior manager in the Walpole store in 2009-2010 was Store Manager Leo Desousa. Just below him in authority were the Assistant Managers, Robin Wilson and Walter Budz. As a Zone Manager Supervisor ("ZMS"), Ms. Lightbody was one management level below Assistant Managers Wilson and Budz.
5. In order to become a ZMS, Ms. Lightbody attended a week-long training in September, 2009 at the Mansfield, Massachusetts Holiday Inn with roughly twenty other Walmart managers. The training included sessions on respect for other employees and customers, and detailed information on sexual harassment and the penalties for violating Walmart rules and regulations.
6. After the training, all management trainees were required to take CBL ("Computer Based Learning") tests at their stores, to determine whether they had understood and retained the material. One of the CBL's was specifically addressed to sexual harassment. All Walmart management staff at the ZMS level and above have had comparable training in sexual harassment.
7. In September of 2009, Assistant Manager Robin Wilson was transferred to the Walpole store from another Massachusetts Walmart store. Mr. Wilson, who is African American, told co-workers at the Walpole store that he was married, and that he had a child who lived in the South.
8. Within two weeks of his arrival at the Walpole store, Mr. Wilson asked Ms. Lightbody if she was married, and began telling Ms. Lightbody that she looked good, that she was "hot." He would roll his tongue around his lips suggestively while

looking at her. He began to touch Ms. Lightbody while talking with her, even though they did not have a professional or personal relationship that would have made touching acceptable.

9. In late October 2009, Ms. Lightbody told Cathy McComb, the personnel manager of the Walpole store, about Mr. Wilson's inappropriate behavior. Ms. McComb recommended that Ms. Lightbody keep a log of the incidents, and Ms. Lightbody began the log the first week of November 2009.
10. Soon afterward, Ms. Lightbody told Ms. McComb about Wilson's inappropriate behavior. Ms. McComb told Ms. Lightbody that Mr. Wilson had begun to touch her too, during meetings in her office to discuss work schedules.
11. Ms. Lightbody later learned that Bonnie McLaughlin, who was in charge of store invoicing, had had similar experiences with Mr. Wilson. Ms. McComb told Ms. Lightbody that Mr. Wilson had told her that he wanted to put her over his knee and spank her, and that while saying this he had mimicked spanking behavior.
12. Ms. McComb and Bonnie McLaughlin told Ms. Lightbody that while working with them Mr. Wilson touched them and rubbed their arms.
13. From mid-November to mid-December, 2009, Mr. Wilson continued to harass Ms. Lightbody in a variety of ways. He repeatedly told Ms. Lightbody that she was "hot" and told Ms. Lightbody that she "excited" him. He pinched her stomach several times and tried to pinch her buttocks. He told her, Cathy McComb and Alexia, the Head Cashier, that his wife was going to be away for the weekend so he planned to sit naked on the couch. He repeatedly would do things to get Ms. Lightbody's attention and then wiggle his tongue suggestively.

14. Ms. Lightbody told Mr. Wilson that she did not appreciate this kind of behavior, but after several weeks of continued harassment, it became clear that Ms. Lightbody was not going to be able to stop him. By this point she was losing sleep, was upset and worried each day we worked the same shift as Mr. Wilson. She also was physically scared of his repeated attempts to touch, grab and pinch her.
15. Ms. Lightbody spoke with Walter Budz, another Assistant Manager at the Walpole store, to discuss her concerns about Mr. Wilson. On December 17, 2009, she filed a written sexual harassment complaint with the store Manager, Leo Desousa.
16. As a result of Ms. Lightbody's complaint against Mr. Wilson, Walmart opened a sexual harassment investigation, known as a "Red Book" investigation. The investigation was conducted by Jennifer Castillo, the Human Resource Market Manager for the nine-store "market" that includes the Walpole store.
17. Ms. Lightbody met with Ms. Castillo during the week following December 17 to discuss the complaint against Mr. Wilson. Ms. Lightbody told Ms. Castillo what Mr. Wilson had done, gave her a copy of the log Ms. Lightbody had kept, and gave her the names of witnesses who could corroborate certain incidents described in the log.
18. About two weeks later, on January 7, 2010, Ms. Castillo scheduled a meeting with Ms. Lightbody to discuss the results of her investigation. Also attending the meeting were Walpole store manager Leo Desousa and Kevin Kennedy, a district Loss Prevention Manager. Ms. Lightbody asked why Mr. Kennedy was there, and was told he attended meetings when there was a potential lawsuit.
19. At the meeting, Ms. Castillo told Ms. Lightbody Walmart had "closed" the investigation, and that Mr. Wilson would remain working as Assistant Manager as

before. Ms. Lightbody asked whether there were going to be any consequences for Mr. Wilson. Ms. Castillo responded that the company would not punish him because he had denied any significant wrongdoing.

20. Ms. Lightbody learned later that Walmart management told Mr. Wilson to repeat the computerized CBL test on sexual harassment--a test he had taken at least once before.

21. Ms. Castillo said at the Meeting January 7, 2010 that Mr. Wilson had admitted some of the inappropriate behavior the other women had accused him of, but had denied what Ms. Lightbody had said he had done to her. Ms. Castillo said that Mr. Wilson had admitted telling Ms. McComb that he wanted to lay her across his knees and spank her. Ms. Castillo said Mr. Wilson had denied grabbing Ms. Lightbody or trying to.

22. Ms. Castillo's presentation at the January 7 meeting demonstrated that Walmart had accepted Mr. Wilson's denials concerning Ms. Lightbody's complaint at face value, without even a superficial investigation, and despite Wilson's admissions that he had harassed other female employees.

23. Ms. Castillo's decision to accept Wilson's denial convinced Ms. Lightbody that Walmart management was telling her the company believed she had fabricated her complaint. During the January 7 meeting, Ms. Castillo provided further insight into Walmart's thinking when she asked Ms. Lightbody whether Ms. Lightbody had "led him on," and revealed that during its investigation into her complaint Walmart had looked into whether Ms. Lightbody was "a troublemaker."

24. After hearing Ms. Castillo's presentation at the January 7 meeting, Ms. Lightbody was extremely upset. She had worked for sixteen years at Walmart, and had risen to a

management position. She expected that the company would do a real investigation of sexual harassment complaints by three employees, which included, in her case, repeated physical contact, grabbing, and sexually suggestive comments and gestures. In response, the company had asked if she had led Mr. Wilson on, had not interviewed witnesses who could corroborate what Ms. Lightbody had said, had instead investigated whether she was a "troublemaker," and had not imposed any discipline on Mr. Wilson.

25. Ms. Lightbody knew from her management training that Mr. Wilson's behavior was a violation of company policy, and should have led to a much more serious sanction than repeating a CBL unit. Ms. Lightbody was particularly upset that Walmart management had decided she had fabricated her complaint, even though they had not interviewed the witnesses she told them about. Finally, she was upset that Walmart had decided to have Ms. Lightbody work the same schedule as before with Mr. Wilson, after effectively telling her they thought she had lied to get him in trouble.

26. On January 11, 2010, four days after Ms. Lightbody's meeting with Mr. Castillo, she learned from Alyssha Dellis, another ZMS, that Ms. Dellis had witnessed Mr. Wilson grabbing and pinching Ms. Lightbody's stomach at least twice. Ms. Dellis said she was nervous about getting Mr. Wilson in trouble, but agreed to meet with Walter Budz, the Assistant Manager.

27. On the evening of January 11, 2010, Ms. Dellis and Ms. Lightbody met with Mr. Budz, who asked Ms. Dellis what she had seen. Ms. Dellis told Mr. Budz that she had seen Mr. Wilson grab and pinch Ms. Lightbody. Ms. Dellis told Budz that she was worried Mr. Wilson would be fired because of what she was saying. Mr. Budz said he

would talk with Store Manager Leo Desousa about what Ms. Dellis had said.

28. Ms. Lightbody waited several days, and then asked Ms. Dellis whether Mr. Desousa had spoken to her about the information Ms. Dellis had provided Butz on January 11. Ms. Dellis said no one had asked her about the information she had given Mr. Budz about Mr. Wilson on January 11.
29. Early the morning of January 13, 2010, when Mr. Wilson and Ms. Lightbody were the only management personnel in the store, Mr. Wilson paged Ms. Lightbody and asked her to come to the management office to speak with him. Given Mr. Wilson's behavior and Walmart's recent decision to take his word over hers, despite corroboration of her accusation by at least one witness, Ms. Lightbody chose not to meet alone with Mr. Wilson in the management office. Instead, she called him on the phone from the floor.
30. Later on January 13, Ms. Lightbody spoke with Store Manager Leo Desousa about Mr. Wilson. She told Mr. Desousa that Ms. Dellis had confirmed what Ms. Lightbody had said about Mr. Wilson grabbing her, and that Assistant Manager Budz had heard Ms. Dellis' account.
31. In providing this additional evidence to Store Manager Desousa on January 13, 2010, Ms. Lightbody wanted and expected Mr. Desousa to treat this new information seriously. She expected him at least to decide that she had been telling the truth about Mr. Wilson, and she hoped Mr. Desousa would use this new evidence to reopen the investigation into her harassment complaint against Mr. Wilson.
32. Instead of inquiring about the new information that proved Mr. Wilson had harassed Ms. Lightbody and lied to Walmart investigators, Mr. Desousa instead focused on her



response to Mr. Wilson's page earlier that day. Mr. Desousa said he'd heard that Ms. Lightbody didn't want to meet alone with Mr. Wilson in the management office, and asked, "Why didn't you go?" Ms. Lightbody said she was scared of what Mr. Wilson might do, and was also scared that if anything did happen, Walmart would choose to believe Mr. Wilson's version and reject hers.

33. Mr. Desousa said, "I'm sorry you feel that way. Is this the way it's going to be forever?"

34. Based upon her interaction with Mr. Desousa, and Walmart's failure to reopen its investigation into her complaints against Mr. Wilson, Ms. Lightbody believes that Store Manager Desousa did not tell Ms. Castillo that Ms. Dellis had corroborated Ms. Lightbody's complaint, and believes that Mr. Desousa took no action to reopen the investigation or determine whether Wilson had lied to investigators.

35. The outcome of Walmart's investigation demonstrates that Walmart had no interest in finding out any information that might obligate the company to terminate Mr. Wilson or disrupt operation of the Walpole store. Jennifer Castillo chose not to interview witnesses who would have confirmed that Mr. Wilson had done just what Ms. Lightbody accused him of. When Ms. Lightbody told Mr. Desousa there were witnesses who would prove what she said, Mr. Desousa didn't bother to check this information, reopen the investigation, or even tell Ms. Lightbody that he now believed what she had alleged. Instead, Store Manager Desousa in substance told Ms. Lightbody that she should forget what had happened and accept that Mr. Wilson could do what he wanted. Walmart management deliberately curtailed its investigation, "closed" it prematurely, and refused to consider additional evidence

that proved Mr. Lightbody's complaint.

36. Ms. Lightbody's case is not the only occasion on which management at the Walpole store decided to ignore obviously unlawful sexual harassment. In early March 2010, a young male maintenance worker, Jaison, dropped his pants to the ground in front of a young female cashier, exposing himself. He claimed it was an accident, but the circumstances—including the fact that he was not wearing any underwear—show that it was deliberate. The head cashier, Alexia, complained to Leo Desousa about the incident. Mr. Desousa told Mr. Wilson to take care of the problem, and Mr. Wilson said he had—by telling Jaison to wear underwear from then on. Mr. Wilson and Mr. Desousa both laughed, and it was obvious that they did not consider the incident significant.
37. Despite Walmart's policy against sexual harassment, and its supposed investigation of Mr. Wilson's behavior, the net result of Walmart's investigation was that Mr. Wilson knew he could get away with sexual harassment. Following Ms. Lightbody's complaint and Walmart's deliberately ineffective investigation, Mr. Wilson grabbed and hugged another employee who works for Ms. Lightbody, Amy Shaughnessy, shocking her and scaring her.
38. Walmart's investigation into Mr. Lightbody's complaint was carefully tailored to further Walmart's managerial convenience. Company investigators chose to believe petty complaints against Mr. Wilson—complaints that would leave him in place with nothing more than a warning—and disbelieve Ms. Lightbody's complaint, which normally would lead to termination of an Assistant Manager.
39. Walmart's handling of Ms. Lightbody's harassment complaints violated M.G.L. c.

151B, § 4 in a particularly outrageous and egregious way. The investigation of her complaint, which under the law is supposed to protect her and her female co-workers from harassment, was not designed to determine the truth or to impose appropriate discipline. To the contrary, it was designed to notify Ms. Lightbody and other female employees that complaints that might force Walmart to replace management personnel would not be investigated competently or thoroughly, and would end with the victim being accused of "leading on" the harasser or being a "troublemaker."

40. As a result of Walmart's violations of ch 151B, § 4, Ms. Lightbody has suffered severe emotional distress.

#### COUNT I

41. Walmart's behavior, as alleged above, violated its duties to Ms. Lightbody under M.G.L. c. 151B, § 4.

42. Walmart's perversion of the investigative process, and use of that process to deter complaints and punish the complainant for making allegations that might lead to termination of an Assistant Manager, was an egregious and outrageous violation of ch. 151B, § 4, justifying punitive damages.

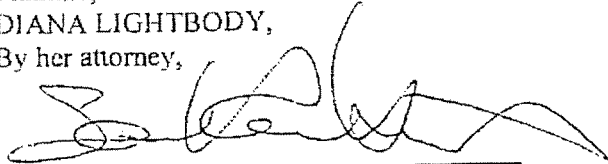
WHEREFORE, Diana Lightbody demands judgment against Walmart awarding her compensatory damages, punitive damages, interest and attorney's fees.

JURY DEMAND

THE PLAINTIFF DEMANDS TRIAL BY JURY ON ALL ISSUES.

Respectfully submitted,

Plaintiff,  
DIANA LIGHTBODY,  
By her attorney,

A handwritten signature in black ink, appearing to read 'Samuel Perkins', is written over a horizontal line.

Samuel Perkins, BBO # 542396  
BRODY, HARDOON, PERKINS & KESTEN, LLP  
One Exeter Plaza  
Boston, MA 02116  
(617) 880-7100  
(617) 880-7171  
sperkins@bhpklaw.com

Dated: January 7, 2013

**Commonwealth of Massachusetts**County of Norfolk  
The Superior CourtCIVIL DOCKET # NOCV2013-00027-A  
Courtroom CtRm 10RE: **Lightbody v Wal-Mart Stores East, L.P.**  
TO:Samuel Perkins, Esquire  
Brody Hardoon Perkins & Kesten  
1 Exeter Plaza  
12th floor  
Boston, MA 02116**SCHEDULING ORDER FOR F TRACK**

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated, and case shall be resolved and judgment shall issue **10/29/2014**.

**STAGES OF LITIGATION****DEADLINES**

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court	04/07/2013	04/07/2013	
Response to the complaint filed (also see MRCP 12)		05/07/2013	
All motions under MRCP 12, 19, and 20	05/07/2013	06/06/2013	07/06/2013
All motions under MRCP 15	05/07/2013	06/06/2013	07/06/2013
All discovery requests and depositions served and non-expert depositions completed	11/03/2013		
All motions under MRCP 56	12/03/2013	01/02/2014	
Final pre-trial conference held and/or firm trial date set			05/02/2014
Case shall be resolved and judgment shall issue by <b>10/29/2014</b>			<b>10/29/2014</b>

- The final pre-trial deadline is not the scheduled date of the conference.
- You will be notified of that date at a later time.
- Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

Dated: 01/07/2013

Walter F. Timilty  
Clerk of the Court

Telephone: (781) 326-1600

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT  
C.A. NO.: NOCV2013-

\_\_\_\_\_  
DIANA LIGHTBODY,

Plaintiff

v.

\_\_\_\_\_  
WAL-MART STORES EAST, L.P.

Defendant  
\_\_\_\_\_

NOTICE OF APPEARANCE OF SAMUEL PERKINS

Please enter my appearance on behalf of the Plaintiff, DIANA LIGHTBODY, in the  
above-captioned matter.

Respectfully submitted,



Samuel Perkins, BBO # 542396  
BRODY, HARDOON, PERKINS & KESTEN, LLP  
One Exeter Plaza  
Boston, MA 02116  
(617) 880-7100  
(617) 880-7171  
[sperkins@bhpkllaw.com](mailto:sperkins@bhpkllaw.com)

Dated: January 7, 2013

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

DIANA LIGHTBODY,

Plaintiff,

C.A. NO. NOCV2013-00027

v.

WAL-MART STORES EAST, L.P.

Defendant.

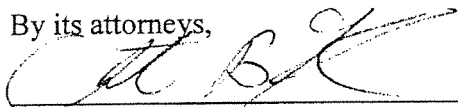
**NOTICE OF FILING OF NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendant Wal-Mart Stores East, L.P., by its undersigned counsel, hereby gives notice to the Superior Court of Norfolk County, Massachusetts, and to the attorney of record for Plaintiff Diana Lightbody that, on April 19, 2013, Defendant filed a Notice of Removal, thereby removing this Action to the United States District Court for the District of Massachusetts. A certified copy of the Notice of Removal is attached hereto.

Respectfully submitted,

WAL-MART STORES EAST, L.P.

By its attorneys,



Christopher B. Kaczmarek (No. 647085)

LITTLER MENDELSON, P.C.

One International Place, Suite 2700

Boston, MA 02110

(617) 378-6000 (t)

(617) 737-0052 (f)

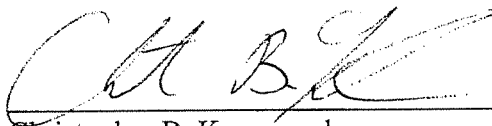
ckaczmarek@littler.com

Dated: April 22, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of April 2013, a true copy of the foregoing Notice of Filing of Notice of Removal was served via first class mail upon the attorney of record for plaintiff:

Samuel Perkins  
Brody, Hardoon, Perkins & Kesten, LLP  
One Exeter Plaza  
Boston, MA 02116

  
\_\_\_\_\_  
Christopher B. Kaczmarek

Firmwide:119625338.1 015602.8370



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

DIANA LIGHTBODY

(b) County of Residence of First Listed Haintiff Norfolk  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Samuel Perkins  
Brody, Hardoon, Perkins & Kesten, LLP  
One Exeter Plaza  
Boston, MA 02116 (617) 880-7100

**DEFENDANTS**

WAL-MART STORES EAST, L.P.

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
Christopher B. Kaczmarek  
Littler Mendelson, P.C.  
One International Place, Suite 2700  
Boston, MA 02110 (617) 378-6000

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

- |   |  |  |  |  |  |
|---|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 690 Other   | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 375 False Claims Act<br><input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 896 Arbitration<br><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property  | <input type="checkbox"/> 440 Other Civil Rights<br><input type="checkbox"/> 441 Voting<br><input checked="" type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 448 Education   | <b>Habeas Corpus:</b><br><input type="checkbox"/> 463 Alien Detainee<br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><b>Other:</b><br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement   | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Management Relations<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 751 Family and Medical Leave Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))                  |  |
|   |  |  | <input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 465 Other Immigration Actions  | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609   |  |

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 1332, 1441, and 1446

Brief description of cause:

Plaintiff alleges employment discrimination in the form of sexual harassment against her employer.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$75,000.00+

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
April 22, 2013

SIGNATURE OF ATTORNEY OF RECORD  
/s/ Christopher B. Kaczmarek

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING BY

JUDGE

MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
Original Proceedings. (1) Cases which originate in the United States district courts.  
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Lightbody v. Wal-Mart Stores East, L.P.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 410, 441, 470, 535, 830\*, 891, 893, 894, 895, R.23, REGARDLESS OF NATURE OF SUIT.
- X II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442-446, 710, 720, 730, 740, 790, 820\*, 840\*, 850, 870, 871.
- III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 368, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 610, 620, 625, 630, 640, 650, 660, 690, 791, 810, 861-865, 875, 890, 892, 900, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Christopher B. Kaczmarek

ADDRESS Littler Mendelson, P.C., One International Place, Suite 2700, Boston, MA 02110

TELEPHONE NO. 617.378.6000

(CategoryForm4-4-11.wpd - 4/4/11)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT

C.A. NO.: NOCV2013-

13 00027

DIANA LIGHTBODY,

Plaintiff

v.

WAL-MART STORES EAST, L.P.

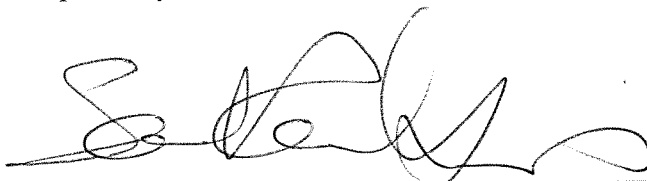
Defendant

1/7/13 FILED  
REC'D IN THE COURTS  
CLERK OF THE COURTS  
NORFOLK COUNTY

**NOTICE OF APPEARANCE OF SAMUEL PERKINS**

Please enter my appearance on behalf of the Plaintiff, DIANA LIGHTBODY, in the above-captioned matter.

Respectfully submitted,



Samuel Perkins, BBO # 542396  
BRODY, HARDOON, PERKINS & KESTEN, LLP  
One Exeter Plaza  
Boston, MA 02116  
(617) 880-7100  
(617) 880-7171  
[sperkins@bhpkllaw.com](mailto:sperkins@bhpkllaw.com)

Dated: January 7, 2013

I ATTEST THAT THIS DOCUMENT IS A  
CERTIFIED PHOTOCOPY OF AN ORIGINAL  
ON FILE.

  
Deputy Assistant Clerk 4/25/13